

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

WILLIAM BRAGG,

Petitioner,

v.

**Civil Action no. 2:06cv125
(Judge Maxwell)**

STATE OF WEST VIRGINIA,

Respondent.

**REPORT AND RECOMMENDATION
THAT CASE BE DISMISSED WITHOUT PREJUDICE**

On December 29, 2006, the *pro se* Petitioner, William Bragg, initiated this case by filing a petition for a Writ of Mandamus. A review of the file demonstrated that the Petitioner had not paid the \$350.00 filing fee nor filed an Application to Proceed Without Prepayment of Fees. Therefore, on January 3, 2007, the Clerk sent the Plaintiff a Notice of Deficient Pleading with a warning that his failure to pay the filing fee or submit the required forms within 30 days could result in dismissal of his case without prejudice.

A review of the file shows that as of the date of this Opinion, Petitioner has not paid the filing fee nor filed the required forms to proceed without prepayment of fee. In addition, the Petitioner has not filed a motion to extend time to do so, or otherwise explained his reasons for noncompliance. Accordingly, it is the recommendation of the undersigned that the instant case be **DISMISSED** without prejudice for the failure to prosecute unless the Court hears to the contrary within ten (10) days from the date of this Order. Any pleadings, motions, letters or other documents filed in response to this Report and Recommendation should be submitted to the Honorable Robert E. Maxwell, United States District Judge. Failure to timely file objections to this recommendation will result in waiver of the right to appeal from a judgment of this Court based upon such

recommendation. 28 U.S.C. § 636(b)(1); Thomas v. Arn, 474 U.S. 140 (1985); Wright v. Collins, 766 F.2d 841 (4th Cir. 1985); United States v. Schronce, 727 F.2d 91 (4th Cir. 1984), cert. denied, 467 U.S. 1208 (1984).

The Clerk is directed to mail a copy of this Report and Recommendation to the *pro se* plaintiff and counsel of record, as applicable.

DATED: May 8, 2007

/s/ James E. Seibert
JAMES E. SEIBERT
UNITED STATES MAGISTRATE JUDGE